A Brief

DISCOURSE

OF

CHANGING MINISTERS

TITHES

INTO

STIPENDS,

OR,

Into another *THING*.

Wherein is shewed,

I. *How* TITHES *are of Divine Right, how not.*

II. *How Canonicall, Ecclesiasticall, Politicall or Judiciall.*

III. *How Leviticall. How Not.*

IV. *Not Ceremoniall.*

V. *How alterable, and How Not.*

LONDON,
Printed by *S. G.* for *W. Lee*, and are to be sold at his shop, at the sign of the *Turks-head* in *Fleetstreet*, over against *Fetter-lane* end, 1654.

(6). 26 t

THE PREFACE.

THese Quæstiones Spinosæ, *perplexed and intricate Questions, whilest that they have been by Canonists, School-men, and others curiously and learnedly disputed, the Decision is left by them more dubious then they found them. Which gives occasion to conceive, that there is a greater mystery in searching out the Original Right of this sacred Revenue, then some men of this Age do understand. Who therefore ought to be so much the more circumspect, what they attempt herein, by how much the power of him with whom is the contest, is the greater: For the Dispute is* (*not* inter homines inter se Litigantes; sed inter Deum & Homines *not betwixt men, but by men with God.* Casus tremendus, non temeritate exequendus; *A Controversie to be trembled at, not with temerity or rashnesse to be determined. For wo unto him that striveth with his Maker.* Esay 45. 9. *Be wise now therefore, Oh you Rulers, and be Learned, yee who are Judges of the Earth.*

And in ſuch dubious and ſacred matters, be ſure to give judgement the ſafeſt way. For if your Judgment be Erroneous, it is Robbery in the Superlative Degree.

The laſt point hath onely been touched curſorily, by ſuch who have written on this Subject. And it never was ſo ſeaſonable here in England, *as now, to be treated on purpoſely. Thou then who ſhalt be cenſorious of this Diſcourſe, let it provoke thee to pen a better, in the behalf of thy Mother the Church, which is the only ambition of him who thinks his name unworthy to be mentioned for her Advocate.*

The Contents of this Treatiſe.

THe *pretences for the Alteration*

Gods peculiar Reſervation of Tithes to himſelf.

God the Donor of Tithes to Prieſts and Miniſters.

Gods Aſſignation to the Levites pro tempore.

Tithes Reverter to God after the Leviticall Law ended.

Opinions of the Quo Jure *of Tithes.*

The alteration, of great weight and concernment.

The Inſtitution of the kinde, Morally and Naturally Divine.

Scrupulous conſciences ſifted and ſatisfied.

Morally Divine or Judicials.

Not Leviticall nor Ceremoniall.

The end whereunto Tithes were ordained.

Tithe not alwayes the Tenth.

The end of their Institution.

How alterable.

The pretence of contention answered.

Whence the contention ariseth.

How the contention may with ease be prevented.

Whence the stipend may issue, and its evill consequences.

The incertainty of Tithes examined and confuted.

The alteration inconsistent with Law and Justice.

Patronages destroyed by such alteration.

The now low, and to be lamented condition of the Church.

A Caveat for Supreme Power, and its Bounds.

The Sum, and close of all.

A Briefe Diſcourſe concerning changing of Miniſters Tithes into Stipends or other Thing.

THE Miniſtry of the Church of *England*, and maintenance of the Miniſters, having been for many Ages legally ſetled and eſtabliſhed in this Nation, and by Divine Providence having been both lately delivered from headlong deſtruction, threatned by a generation of men (ſhall I ſay) or rather beaſts in the ſhape of men: The Church cannot yet promiſe her ſelf ſecurity or ſafety; for though her enemies have bin prevented by laying her level by a down-right blow, yet they will not ceaſe to ſolicite Supreme power to do their work by a circumference, and before the Church could be throughly ſenſible of her aforeſaid late delivery, they have already contrived how to undermine her, by a ſpecious way held out of Peace and Profit, as it were, intended towards her. But if the Church muſt be deſtroyed, the difference is not great, whether it be done by the meanes of the open mouthed Ravenous Wolfes, or by the underminings of the ſubtile Leering Foxes.

Now in ſhort, the contrivance is, to take that from her which ſhe hath, and to find out a new way for her ſubſiſtance, and as is pretended leſſe ſubject to ſcruple and contention, and not ſo incertain. From which exchange, I ſhall pray for her delivery, and that Supreme Power will take the counſell of *Solomon* herein, *Not to meddle with them that are given to ſuch change, leſt deſtruction ariſe ſuddainly on them both.* Prov. 24. 21.

In the handling of which Subject, the firſt thing to be taken into conſideration will be; By what Power and Authority Tithes became and were ordained, for the Miniſters Portion originally? Wherein ſome there are, and thoſe not a few, nor men of weak judgement and learning, that have held, written, and maintained that God himſelf was the firſt Donor of Tithes

unto his Miniſters. And that though he be the Creator and Lord of all the World, & gave the Earth, and the fruits thereof to the Children of men, that yet, in that very gift, he did reſerve in a peculiar manner, a Part or Portion thereof unto himſelf, not that he needed any, but wherewith he would be honoured, and have Religion perpetuated by the Sons of men, for their own good, who by their offerings of ſuch part of their goods, wherewith God did bleſſe them, they ſhould honour him with their ſubſtance as it is, *Prov.* 3. 9. and acknowledge their Homage to him, and perform that ſervice towards him, which from the beginning was ordained them to do. And for proof of this truth, the offerings of *Cain* and *Abell* are alledged, who had no other commands that we read of, then the very dictat of nature herein to guide and direct them, And becauſe there was then no other Miniſtry ordained by God, therefore was this offering of theirs made unto God himſelf, which as ſome do conjecture, is for the part that which was afterwards called Tithes.

See Sir *H. Sp:* c. 24. p. 102.

For we do not read in Sacred Writ, that the Lord did own any other part for His, of the goods he had given unto man, (I mean Morally or Judicially, not Ceremonially) then Tithes, and of thoſe he ſaith, *Levit.* 27. 30. that Tithes are the Lords, Holy to the Lord. As for other offerings, the Lord did never own them, till man had vowed or offered them. We ſpeak not of firſt Fruits or Sacrifices, or what was ceremoniall. But of Tithes, you ſee it is ſaid, that they are the Lords (not yet the Levites) in the Preſent Tenſe, and his peculiar Right, before they were either ſevered or paid, or aſſigned to the Levites.

Now ſo ſoon as we read either of Prieſthood or Miniſtry. We ſee that God apointed that that part or portion of worldly goods, which by the Law of divine nature, man was to offer unto the Creator, was to be offered unto the Prieſt, for no man will doubt, but what *Abraham* offered or gave to *Melchiſedeck*, was by divine appointment, And that which he did give is named Tithes, but whether only of the ſpoiles as ſome would have it, or of all his ſubſtance as others affirm it, we will not here diſpute it. But what was this of *Abrahams* tithing for? Not for Sacrificing, for he offered nothing, but for bleſſing, which the Miniſters of Chriſt perpetually performing, the ſame reward

reward is due to them that did belong to the Prieſt, for no change of the Law, but by the change of the Prieſthood, which is the ſame of *Melchiſedeck* and Chriſt for ever. And again that that which *Jacob* vowed was Tithes, not a voluntary vow as ſome would have it, but a dictat of divine nature, according to the example of *Abraham* his Grandfather, and in common underſtanding to be paid unto the Prieſt as *Abraham* did, the eldeſt Son of the Families being then the Prieſt, till *Aaron*: ſee more of this in Mr. *Selden*. Heb. 7.12. Mr. *S.* p. 5.

The matter being thus ſtated and uncontroverted, that the great and wiſe Creator reſerved to himſelf a peculiar right in the Creatures (though the *Quota* be not agreed on) which he afterwards conferred upon, and aſſigned to his Prieſts in the dark times before the Law, it will under the Law be moſt plain and perſpicuous both for the kind, and for the *Quota* alſo, that the Portion which the Lord appointed to his Miniſters, the Tribe of *Levi* for their ſervice in the Tabernacle was (amongſt other things) of the Fruits and production of the Earth in kind, and the Tenth part thereof, truly called Tithes. For the Tribe of *Levi*, being joyned to the Prieſthood the Houſe of *Aaron*, a Levite and his Sons, the Tithes by this were not taken from the Prieſthood, to whom they only belonged, but by that conjunction, the Prieſts and Levites being united, Tithes became the Right of both as Prieſts; and the people paid their Tithes to the Levites, and they Tithes to the Prieſts, but notwithſtanding this conjunction the Levites had only the charge of the Tabernacle and *Aaron* and his Sons the charge of the Sanctuary, Altar and Veſſells thereunto belonging, and yet by reaſon of this union the Prieſts were ſometimes called Levites, as in *Ezech.* 44. and the Levites Prieſts, *Heb.* 7. where it is ſaid that the Sons of *Levi*, who receive the office of Prieſthood have command to take Tithes of the People. This obſervation will not be altogether uſeleſs, becauſe it meets with an objection that Tithes were taken from the Prieſts, and given to the Levites, who were not Prieſts, and ſo became Leviticall, and ended with *Levi*. Whereas by this it appeares that the Levites were joyned to the Prieſts, and God might make whom Prieſts he pleaſed; and ſo Tithes were not taken from the Prieſts, but belonged to the Levites, being joyned to the Prieſthood. Nor had Tithes Numb. 18.26. Ezech. 44.15. Heb. 7. 5.

been taken from the Priests by God, and given to the Levites, would that conclusion have followed, that Tithes must then end with the Levites, as shall be made more plain hereafter. Nor doth it follow, that, because if God the Creator and true owner did take them from the one, and give them to the other *pro Tempore*, therefore man may so do, or destroy them for ever, of which more hereafter.

The first place in the Old Testament of the Law, where Tithes be spoken of expressly, saving that of *Abraham* and *Jacob*, is that before remembred of *Levit.* the 27. 30. in which the Lord only declares his Right unto them. The next place is that of *Numb.* 18. 21. where he assigneth them to *Levi* for an inheritance for their service in the Tabernacle. These two Texts of Sacred Writ, and the constant Practise of the Jewes in paying their Tithes during the time of the Law, even to the comming of Christ, as by that of our Saviour of Tithing mint, &c. and by the boasting Pharisees speech to our Saviour of tithing all he possessed appeares, do so manifest the truth hereof, that it admits no dispute, untill the Leviticall Law was abrogated.

Now that Law ceasing by the death of our Lord and Saviour Christ Jesus; the next thing considerable will be, what became of Tithes, when the Levites service in the Temple ceased. For the Right understanding whereof, let us look a little back to that which hath been said. For if it be true, which indeed cannot be denyed, that God did reserve a Part and Portion of the Creatures as his peculiar Right, in the offering whereof, man for Gods blessing on his goods, was to express his gratitude to his Creator and Benefactor, even by the Divine Law of Nature, which is so grounded in the Nature of mankinde, as that there never yet was any People, who honoured God, but held it their duty to do him honour with their goods; for it is a principle in Nature, a truth infallible, and an Axiome unquestionable, that men are eternally bound to honour God, with their substance from whom they have it, in token of their gratitude. Nor ever was any people so barbarous, but did acknowledge a Deity, and to that Deity which they did so acknowledge, they naturally did offer of those good things, which they supposed to receive from such Deity. Upon which ground ariseth that

Hooker. p. 424.

inter-

Interrogation of the Prophet, *Will Any man ſpoil his gods?* arguing the withholding of Tithes to be a violation of the Law of Nature, and not of the Levitical Ordinances. If this (I ſay) be a Truth, and that the part and portion thus due unto the Creator, be that which he calleth Tithes, (for other part of mans goods the Lord doth not challenge in that peculiar way, but Tithes he doth in expreſſe terms,) And them you ſee he beſtowes upon his Prieſts before the Law, and under the Law upon the Levites for their ſervice in the Tabernacle, (out of which ſtill the Prieſts had a Tithe) which aſſignation to the Levites, hath this tacite condition annexed unto it, that when that ſervice failed, then the wages ceaſed, and the Levites were no longer to enjoy their Tithes, then whileſt the ſervice laſted, for performance whereof that wages was allowed, it follows of congruity, that thoſe Tithes part or portion which were the Lords peculiar right before the Levitical aſſignation, ſhould return again unto the Lord, as in his former right; for elſe we deny God that Reverter of his own proper and peculiar inheritance, which we enjoy in ours, when the line faileth upon whom we make the Intail. Mal. 3. 8.

And Tithes being thus reverted to God, not for any need he had of them, but for the need mankinde had of the Prieſts and Miniſters of the Goſpel. Which Miniſtery, as it ceaſeth not till the ſecond coming of our Lord and Saviour Chriſt Jeſus, ſo it cannot be ſupported without Temporal means, which leadeth us to the next Conſideration, Whether the Lord hath not aſſign'd that his right of Tithes unto the Miniſters of the Goſpel.

Though it be true, that there is no ſuch expreſs Text of Scripture in the New Teſtament to prove the Lords aſſignment of Tithes unto the Miniſters of the Goſpel, as that of *Numb.* 18. 21. to prove his aſſignation thereof unto the Levites, yet the conſequences and arguments drawn from ſeveral Texts of the New Teſtament, doe evidently enough prove Tithes to belong to them for their Miniſtery, as well as to the Levites for their ſervice.

That the New Teſtament doth frequently command and call for a maintenance for the Miniſter, and that to be not onely competent, but honourable, we need not cite the particular

Texts of Scripture for it: That any other ordinary maintenance is intended the Miniſtery of the Goſpel, by the New Teſtament, then Tithes, the Scripture is ſilent in it, and we muſt be ignorant of it. Nor doth it appear that the Lord hath otherwiſe diſpoſed of this his Prieſtly patrimony: therefore we may with ſafety conclude, that the ordinary maintenance of the Miniſters of the Goſpel intended by the New Teſtament, is partly Tithes, which if they may not enjoy, there is no other can claim or derive a title to. And the Maxime of the Law is, that *In æquali Jure Melior eſt conditio Poſſidentis.*

The non-payment of Tithes to the Miniſters of the Goſpel in the Apoſtles days, and in the Primitive times of Chriſtianity, is no argument againſt their right; for till a Nation became Chriſtian, Tithes could not be paid, nor could the Miniſters of the Goſpel in thoſe times of perſecution, receive, collect, or retain them. The Apoſtle prevents this objection of non-uſage of their power, to be no prejudice to their right.

1 Cor. 9. 12. 15

It hath been, and yet is much controverted amongſt the Learned, by what right Tithes are due, ſome holding them to be due *Jure Divino morali*, as the Canoniſts generally, with whom agree many of our Engliſh and Learned Divines; but ſome agree the tenth part to bee only due by Law Poſitive and Eccleſiaſtick, and that there is no more *Jus Naturale*, or *Divinum Morale* in it, then what commands a competence to the Prieſthood; and what now is, is in imitation onely of the *Jewiſh* ſtate ordered by the Almighty, and not obligatory under the Goſpel, but that the Church might freely have ordained a ninth, eleventh, or other part.

Mr. *S.* p. 150. 158.

Others there are who hold, that Tithes amongſt the *Jews* were onely Judicials, and not due by Divine, Moral Law, or Law of Nature, but by the Civil Law of that Nation. And of this opinion are the Schoolmen generally, who when they ſpeak of their *Jus Divinum*, they are to be underſtood to ſpeak of the Law Poſitive of the Church, imitating the Divine Judicials, which retain their *vim exemplarem*, though not *obligativam*; neither do they make any difference betwixt Tithes prædiall and perſonall, in this reſpect, which the Canoniſts do.

Others there be, who hold them Ceremonial, and to determine

mine with the Levitical Law, though they be not able to ſhew what the payment of Tithes did ſignifie, nor what they did typifie, nor whereof they were a ceremony, which are the only Diſcoverers of that which is Ceremonial. In this variety of opinions, the queſtion amongſt the Canoniſts, Schoolmen, and Divines, not being yet determined by what Law Tithes are due (though it may be gathered for a truth, from the Scriptures, the Fathers, and other Humane Writers, that for ſo much as concerneth the due maintenance of the Miniſter, that it is due *Jure Divino Morali*,) by the Law of Nature, that yet the part as it was declared by the Judicial Law of the *Jews*, ſo is it due by the Civil or Poſitive Law of the Nation, but yet from the time of Grant or Dedication, to be the Lords to the worlds end, unleſſe himſelf, or perhaps the Miniſters his Truſtees, ſhall renounce or relinquiſh them.) It is no ſmall or trivial buſineſſe for thoſe in preſent power to go about an univerſal alteration of this ſacred patrimony. (Sacred, I ſay, that is, ſet apart towards the ſervice of God, in perpetuity under the limitation aboveſaid of the Lords or of his Miniſters renunciation.) Before there be a judicious determination of its Original right, by an Aſſembly of Learned and Orthodox Divines, Lawyers, Canoniſts, and Caſuiſts, thereunto called by Supreme Authority.

For if Tithes be due to the Miniſters of the Goſpel *Jure Divino Morali*, or by the Law of Nature in kinde, or in quantity, then will that State which ſhall alter them, or enforce an exchange of them for ſome other thing, be guilty of no leſſe ſin then Sacriledge, which is of ſo high a nature, that it coſt *Ananias* and *Sapphira* dear; a preſident the higheſt of that nature, we read of, in the New Teſtament, intimating unto us, that ſin to be the greateſt which after the death of our Saviour was in all the Apoſtles times acted or committed. Not for breach of the Levitical law, then ended; but of the Moral law, in withdrawing a thing devoted, the taking away what our forefathers devoted, (as Tithes) aggravates the offence, and ſo will do the puniſhment. Nor have thoſe parts or perſons wherein, or by whom it hath been practiſed, gone unattended with direful Judgements; Neither *Germany*, *France*, *Holland*, nor *Scotland*, (I will not ſpeak of *Englands* condition) can at

this day glory of their prosperity, where that sacred patrimony, with other of the like nature, have been swallowed up totally, or converted into Stipends or other things.

And besides the sin of Sacriledge, it must needs be interpreted a transcendent and high presumption for man to take upon him to be wiser then his Creator. And whereas God in his wisdome hath appointed Tithes to be the maintenance of his Ministers, that man should take upon him to chop and to change, to take away or confound what the Lord hath ordained. When we pay our Tithes duly, we have in that particular discharged our duties both to God, and to our Minister, either according to the Divine, Moral Law, or exemplary-wise by imitation of the Divine Judicial Law; but when Tithes shall be turned into Stipends, or some other thing now, or into *Hoc aliquid nihil*, hereafter, how can a man be satisfied when he hath paid or performed that, that he hath done what hee ought, or done his duty without diminution, the surest way for God to have his right, and the truest way for man to do no wrong, is payment in kinde out of the very self-same goods, which the Earth by his gracious blessing doth continually produce. It was a witty observation of the *Hebrews*, that when a man pays his Tithes, he is the Husbandman, and receiveth nine parts for one, and God who receiveth one of ten is the Priest. But when Tithes are not paid, then God is the Husbandman, and keeps the nine parts, and man is the Priest, and hath but the tenth; for then ten acres of Vine shall yield but one Bathe, *Esa.* 5.10. So tender were the consciences of men heretofore in point of Tithing, that few of them could be satisfied that they had so punctually paid them as they ought, and therefore usually in their Wills they bequeathed somewhat to the Parson for Tithes omitted, in lieu whereof the Mortuary is paid to this day: how seared are the consciences of men now, that would pay no Tithe at all?

Now those who write against the Divine Moral Right of the *Quota*, or tenth part, yet still agree that a part or portion of the Increase of the fruits of the Earth, &c. in kinde, is the right of the Ministers of the Gospel by the Divine Moral Law, and by the Evangelical Texts of Muzling the Ox, Planting a Vineyard, Feeding a flock, and not partaking of the milk and

Fruit

Fruit thereof in kind, with many other places of the New Teſtament, which the Apoſtle urgeth not, as an Ordinance *de Novo*, but from the Law which proves moſt fully, that the manner of tithing under the Goſpell, ought to be as it was under the Law, both in kind and quantity. How then can it ſtand with the Conſciences of them in Power to alter the way, that God hath appointed for maintenance of his Miniſters? will they ſtill be wiſer then he?

If the Tenth part be looked upon by the Repining people, as too great a Portion for Gods Miniſters of the Goſpell to enjoy, wherein thou man doeſt ſtill take upon thee, to be wiſer then thy Creator, who appointed his Prieſts that and much more among the Jewes. Why then doeſt not thou only content thy ſelf with an Abridgement of the *Quota* or part? but thou muſt be altering of the very Nature and kind alſo of that maintenance, that God in his wiſdom hath by Divine Morall Law ordained for his Miniſters, and not without viſible and pregnant Reaſon. For this way of maintenance, is ſutable to all times, both of plenty and ſcarcity; agreeable to all prices of Corn, Grain, Hay, and other commodities, the Prices whereof though they change daily, yet Nature being uſually the ſame, keeps the true ſtandard betwixt God and man. Again of conveniency to all perſons both Pariſhioners and Miniſters, the one to go no further to pay, nor the other to recive whats due, then to the Land it ſelf within the Pariſh. And of beſt Equality, the Poor not burthened, nor the Rich eaſed, (for the di proportion betwixt Tithe of Paſture and arrable, makes not Tithing unequall, comparing Land of the ſame quality one with another, but the inequality thereof proceeds from the owners uſage, who is at liberty to husband his Land, in what kind he pleaſeth, whether he be rich or Poor.) The duty more readily performed in paying Tithe in kinde, then by paying the value thereof in money, which with moſt Farmors is uſually wanting, when their commodities are moſt plentifull, and may be better ſpared.

And again it is more Naturall that Tithes be paid in kind then otherwiſe, For Tithes procure an increaſe of the Heap, out of which they are taken, and by the Jewes were accounted the very Mound, Fence, and Bulwark of all their ſubſtance. And

if

See much more of this Number in Sr. *H. Sp.* c. 14. *De Orb: concordia. Lib.* 3. c. 10.

if you look upon the quantity, Ten is the number of Natures perfection, beyond which we cannot go without iteration and Repetition. And *Postellus* telleth us, that it stands with Reason, that forasmuch as all Creatures do bear the Character of Divine Power, Wisdom, and Mercy of the Creator, That Tithes as well as Tribute should be paid of, that to him whose Image and Superscription they bear, How else do we give Honour, to whom Honour belongeth, or to God the things that are Gods, our Wealth being Gods, as well as the time of our Lives, whereof he Reserved a seventh part to himself, but of the other only a tenth.

Bishop *Andrews.*

And again Nature and Reason do plead for the Minister to participate with the People in that kind, wherein there may be equallity of fortune, and whereby Sympathy and Communion, that great Bond of Nature, between the Church and Commonwealth is preserved (as a late Learned Bishop of this Church hath it) as in fair and seasonable weather, and in times of Plenty, the Minister to rejoyce and praise God with the People, in want and tempestuous weather, to mourn and pray together, But where the Priest is a stipendary, when the People rejoyce for Plenty, or lament for want, the Minister doth neither; for what is their Sowing, Mowing, or Reaping unto him, when the Bond of Nature is dissolved, the like may be said, where the Minister walketh, waiteth and attendeth for his (it may be two narrow) stipend that is withheld from him, for want whereof he, his Wife, Children, and Family Mourn, Lament, an Famish, what is all this to the People? there is no Sympathising one with another, either in Mirth, or Misery, for the greatest Bond of Nature is dissolved.

Let us now come to consider of the Grounds, and Motives held forth for the alteration of Tithes, the setled Revenue, and undeniable Right, and Property of the Ministers of the Church and the converting of them into stipends, or some other thing,

The first Argument I find is, that the Payment of Tithes is scrupulous to tender Consciences.

To which it may be answered, that those Consciences should be first examined, and then Rectified, rather then such an universall alteration should be made of that Sacred and setled Revenue of the Church; And again it is contrary to Reason, and

the

the Rules of Government to Repeal, or to overthrow a Fundamentall, Generall and well setled Law, because a few either Sickbraind, or Dissembling sort of People do quarrell at it: First let such men be well examined, whether it be Conscience or Covetousnes, that is most predominant with them. And that you may easily discover by this Touchstone, *viz.* whether he be willing to set forth as much Land for the Minister, as is equivalent to the value of his Tithes, if he will so do, then am I so charitable as to think, that persons Conscience to be truly tender, and great pitty it were to offend it. But this particular Case may better be composed by a Temporary, or mutuall agreement betwixt the Parson and such Parishioner, then by altering of a generall Law, for the satisfaction of such particular persons, whose number you will find very inconsiderable to the multitude, & happily his Posterity, or he that shal succeed him in his dwelling, may be of another mind; And then as good cause to alter the Law again. And thus by seeking to please the Humors of some particular persons, a Fundamentall of the Law must be infringed, not only to the Generall prejudice of the Ministers, but also to the Publick incertainty, and Confusion of the propriety of all men.

But if by this Essay, you find such tender conscience, neither willing to pay Tithe, nor any thing else in Lieu thereof to the Minister; you may conclude him either Covetous, Hypocriticall or Schismatical; For whose sake it is to be hoped that those in Supreme Power will not hold it fit to make such a general alteration in so Sacred a Revenue, but rather that such pretended scrupulous persons be brought to conformity to the good old Law of the Land, then to make the Lawes of Church and Commonwealth conformable unto them. Those whom Providence lately prevented, from destroying both Ministry, Church Maintenance and Propriety, will yet be glad to see such an universall Alteration, as a step leading to their design.

Let us yet examin this scrupled Conscience a little further, and see if any thing there be in sacred Scripture to raise this scruple; for it must arise, either from the originall institution of them, or from the end whereunto they were instituted. Their originall institution is either by the Divine Morall Law, and Law of Nature; or by the Judiciall and Nationall Law of the

Jewes; Or by the Leviticall Law; Or by the Ceremoniall Law. For theſe four (if we may make ſo many of them) are all the opinions we read of, that have been broached of the *Quo Jure* of Tithes.

Now if they be due by the Divine Morrall Law, and Divine Law of Nature, that bindes all People, in all Places, and at all times, and from thence there can ariſe no Scruple.

If in the next place it be granted, that they are Judicialls, and ſo obligatory to the Jewes as their Nationall Law; Then by that reaſon it muſt follow, that Tithes ought to be paid in this Nation, becauſe they are due to the Miniſters, by the Nationall Law of this Land, which ought to be as binding here in *England*, as it was amongſt the Jewes, from whom *England* had its Pattern and example, which is the moſt that can be truly ſaid of a Jewiſh continuance with us; yet not that we are in Love with it, becauſe it was Jewiſh, but like it, becauſe it was the Lords ordinance Judiciall, if not Morall.

If Leviticall. Hence indeed may ariſe a Scruple, becauſe the Leviticall Law is ended in our Saviour. But that they are not of Leviticall Inſtitution, ſome give this anſwer (that would prove them due by the Law of Nature) that Tithes were paid before the Leviticall Law given, by *Abraham* and *Jacob*, and therefore cannot be Leviticall. Others anſwer, that all that is Leviticall in Tithes is only their Aſſignation to the Levites for their ſervice, and that ſervice being ended, the Right of Tithes return again to the Lord, the Donor, by him to be diſpoſed of according to his good will and pleaſure.

If Ceremoniall; Then true it is that Tithes are not to be continued, amongſt Chriſtians, foraſmuch as it is agreed, that *Judicialia ſunt Mortua*, and may be imitated, and taken up in example again: But *Ceremonialia ſunt mortifera*, deadly and not to be revived or continued; But the double anſwer laſt before mentioned to the Leviticall anſwereth the Ceremoniall pretence alſo, but becauſe a threefold Cord is not eaſily broken, take hereunto this third anſwer alſo, that they were not Ceremoniall, foraſmuch as they did neither ſignifie, nor Typifie any thing.

But the end of Tithes is the Honour and ſervice of God, (which no conſcience may ſcruple at) and maintenance not of the

the Levites only, but of the Miniſters of the Goſpell of Chriſt at all times to remain, ſo long as the Miniſtry ſhall ſtand, and though not paid in the Apoſtles time, or times of perſecution, yet were they by the Ancient Fathers ſucceeding, the Apoſtles challenged to the Church as the Lords Ordinance for maintenance of the Miniſtry, and by univerſall conſent of all Chriſtendome firſt or laſt paid. For as ſoon as the ſtate of the Church could permit and admit thereof, Chriſtians held it moſt Naturall and Fit, that God ſhould as before the Law, and under the Law, have his ancient Revenue of Tithes after the Law.

Wherein I would not be miſtaken, as if I did affirm that the Tenth part (when I ſpeak of the payment of Tithes) was ſo univerſally paid, but that ſome part more or leſſe of the Fruits of the Earth in kind were paid. For you may ſee that *Decima*, or *Decimatio* do not alwayes ſignifie either a reall Tithe, or a Tenth part, but ſometimes money paid in Lieu of Tithe, or as it were of the nature of Tithe, ſo called, but not ſo in truth in the ſtatutes of 27. *H.* 8. 21. and 37. *H.* 8. 12. and the Decree made upon them concerning *London*. And ſometimes leſſe then a Tenth, as the four Thraves of Corn, of every Plow-Land, in the Eaſt Riding of *York*, given by King *Athelſton* to the Church of *Beverly*, which came not neer to a Tenth, is ſtiled *Decimæ* in the Bull of the Pope. And the gift of two Sheaves in an ancient *Chartulary* there remembred, is called *Decimatio*. And for ſatisfaction herein, you may ſee the Etymologie of the word *Decima* or Tithe, to ſignifie the Tenth, whether it be the Tenth part or not. But this by way of Digreſſion, which yet may ſerve to reconcile many diſputes concerning the *Quota*, or part tithed, if well and rightly weighed.

Mr. *S.* Epiſt. p. 8. 11. and cap. 8. p. 243. 244.

Sir *H. Sp.* c: 14. p. 67:

But to return once more to the Scrupulous Conſcience, for I am loath to leave him unſatisfied, or at leaſt unconvinced. It is the Generall tenet of all the Learned, that Tithes are neither Ceremoniall, nor Leviticall, otherwiſe then in their Aſſignation to the Levites for the Service of the Tabernacle. And Saint *Paul* well knew, that the Leviticall and Ceremoniall Law were ended, and would never have uſed an Antiquated Law for Argument, or proof of the Right of the Miniſters of the Goſpell, as he doth that of *Deut.* 25. 4. *Of Muzling the Ox, &c.* If that Law had not been rather Naturall then Ceremoniall.

moniall. But though that ſervice be ended of the Levites, yet the end whereat that maintenance aimed, was the ſervice of God, which the Miniſters of the Goſpell yet performing, That very maintenance *ex Congruo*, and by Saint *Pauls* aforeſaid Argument (if not from the Divine morall Law, yet) from the Politicall Law of the Jewes not wholly cancelled, belongs to the Miniſters of the Goſpell, which none but the moſt ſeditious Sect of Anabaptiſts will deny, who denying alſo the very Miniſtry it ſelf, can do no leſſe then deny their maintenance, to whom I ſhall give no other Anſwer then before, as to the Right of Tithes. And for their other opinions concerning the Miniſtry it ſelf, they have been abundantly confuted, by many of the Learned, and it is a proper Subject for the Divine to undertake, if any thing *De Novo* can be allegded by them.

But here I truſt is ſufficient matter ſhewed to prove Tithes to be due, either by the Divine Morall, or Naturall Law, or by the Poſitive Law of this Nation, wherein the Canoniſts, and Divines generally holding the Divine Morall Right, the Schoolemen, Papiſts, and many others the Poſitive Lawes of each Nation, which queſtion, I will not take upon me to determine, foraſmuch as Tithes being the Miniſters due here in *England*, by either of thoſe wayes; it ſerves the turn for this diſcourſe, the Scope and aime thereof only being, to ſatisfie the Reader, that whether Tithes are due here, by the one Law, or the other to the Church, that they may not be taken from it, nor a ſtipend, or other thing to be exchanged for them, without the conſent of Parſon, and Patron at leaſt.

I muſt confeſſe, that could the Divine Morall Right to the Tenth part be ſufficiently cleered, that this would eaſily reſolve the reſt; and no man could then go about the Alteration herein, but he muſt ſet God himſelf at defiance: But ſo much thereof being herein proved, as that by the Divine Morall Law, an Honourable Portion in kind, is due to the Miniſter of the Goſpell, and many Ancient and modern writers have held, and do maintain the ſetled maintenance belonging to the Church of *England*, to be the Portion of Divine Right belonging to it, That which I ſhall now ſay, is by way of Caveat to them in Supreame power, that it highly concerns them (if they intend any alteration herein) to be fully ſatisfied in this Point of Di-

vine

vine Right, as well for the kinde, as for the *quota*, before they go about it; for it is not for men of dubious thoughts, but well reſolved, by ſound and ſolid Arguments, to undertake a mutation of this ſacred Revenue, for if either the kinde or *quota* be Moral, the Alteration is deſperate; and why ſhould Supreme Power run the hazard of a curſe from Heaven upon themſelves, and the whole Nation, by reſolving that which at leaſt is queſtionable, not with men only, but between them and God, to whom the judgement belongs; There, to be given, where he is the only Advocate, whoſe Spouſe (if the Right be hers) is diſinherited. Religion and Policy both, prompt men in matters dubious to reſolve of the ſafeſt courſe; No danger in confirming the Miniſters maintenance as it ſtands eſtabliſhed, but great hazard in the commuting.

2. The ſecond Argument for this Exchange, is, that the way of Tithing is a contentious way of maintenance of the Miniſter, and for peace ſake ſome other way muſt be found out for their ſubſiſtence, leſſe ſubject to contention.

Thoſe who frame this for a reaſon of the Alteration, ſcarce look ſo far as to the Donor of this ſacred maintenance; for if they did, then would they conſider that God himſelf made this a Law among the *Jews* his own ſelect people; (to goe no higher, having ſaid enough thereof before) And unleſſe wee will be wiſer then he who is Wiſdome it ſelf, wee may not cenſure this way of maintenance for contentious, nor hold forth any other as more peaceable for *Jews* or Chriſtians, the Chriſtians imitating them who did receive their Law from the mouth of God himſelf.

Certainly had there been a more peaceable way to have been found out, for maintenance of Gods Miniſters, the Omniſcient and Omnipotent Lord, as he muſt needs have known it, ſo his Goodneſſe and Power is ſuch, that he would have ſo appointed it; Let us then lay our hands upon our mouthes, and be ſilent, or if we will be ſpeaking, let us condemn our own fooliſhneſſe, and magnifie his wiſdome.

But becauſe it is the corrupt nature of man to be finding out inventions, and to be always changing, though for the worſe, before we fall upon this Exchange, with us, let us enquire whether the *Jews* did, or lawfully might have been

ſuch

ſuch Exchangers? that they had cauſe ſo to be, (if contention be a cauſe) is evident, for there wanted not amongſt them who withheld, ſubtracted, and withdrew their Tithes, as now amongſt us, witneſſe the complaint of the Prophet, and the vain-glorious boaſting of the Phariſee, that *He paid Tithe of all that he poſſeſſed*; implying that others did not; that their natural inclinations prompted them to it, is apparent; for they were and yet are the greateſt Brokers and Exchangers that the world affords. That they yet did not put ſuch Exchange in practice, it is evident by that of our Saviour in the Goſpel, *Yee Tithe Mint, and Rue, &c:* and that of the proud Phariſee before; ſo that you ſee, that though the *Jewes* were the moſt perverſe and ſtiff-necked people of all others, (notwithſtanding they were the only ſelect Nation) yet they were not grown to this height of impiety, as to exchange the ſacred Patrimony by a Law.

Mal. 3. 8.
Luke 18. 12.

Luke 11. 42.

Let us then examine the ſecond part, Whether lawfully they might have been ſuch Exchangers of Tithes? Obſerve here, that I do intend the firſt Tenth paid to the *Levites*, not the ſecond Tenth out of the nine parts, which the two firſt yeares were to be brought to *Jeruſalem*, there to be ſpent in Feaſts, and the third year upon the poor and *Levites* within his own gates: For if the way were too far from *Jeruſalem*, then by *Levit.* 27.31. they might change thoſe Tithes into money, adding a fifth part more to them, (which few of our Exchangers will be willing to doe.) But the Inquiſition here handled is of the firſt tenth, Whether the *Jewes* might lawfully have exchanged that? which I am perſwaded, no man of ſound judgment will maintain: For the allowance of their exchange of the ſecond tenth in caſe *Supra*, excludes the exchange of the other. Now what was it that might hinder this exchange, we will ſpare the Divine Right, for wee have ſpoken enough of that before; But admitting that did not impede, then certainly it muſt be the Judicial Law given them that did reſtrain them from it. If ſo, then why ſhould not our Humane Poſitive Laws withhold us from the like? If you will make the difference to reſt in this, that God more immediatly preſcribed that to the *Jewes* for their National Law, then this Poſitive Law to us; this is a difference without a diverſity, for by that reaſon

reaſon the *Jewes* ſhould have been more ſtrictly bound to the obſervation of the Decalogue, (though Moral) then Chriſtians. And again, it was a Law given to them for their Nation, not excluſive, that no other Nation ſhould uſe it, but rather as a pattern for other Nations to imitate; and ſo it being unto the *Jews* but a bare Judiciall Law, it could be no more binding to them by reaſon of a more immediate preſcription, then to us by a mediate imitation, having not ſo much the *Jewes* for example, as God for the Authour of that Law.

Again, whence ariſeth the ground of this contention, which makes the Miniſters maintenance by Tithing ſo litigious, as that ſome new way for their ſubſiſtence muſt be found out? Doth this contention ariſe from the Parſons part, or from the Pariſhoner? If on the Pariſhioners part, then in Juſtice and Reaſon, ought Supreme Power to provide better Laws to compel the Pariſhioner to pay his due, and not to enforce the Parſon to depart with his indiſputable Right, becauſe his Pariſhioner doth him wrong, for that were all one, as if my neighbour have a mind to my houſe, or land, and becauſe I will not let him have it, he will diſſeiſe or diſpoſſeſſe me of it, and then Supreme Power to make a Law to enforce me to take money or another thing for it; whereas Authority is ordained by God, *to puniſh him that doth wrong, and to relieve the innocent and him that is injur'd.*

Now that the Pariſhioner is the contentious perſon in this caſe, it is manifeſt by the multitude of actions that the people put the Parſons to, wherein the Tryals generally and conſtantly go with the Parſon who is injured, and from whom right is detained; whereunto the people are the more encouraged, becauſe Tithes have been diſcountenanced, the ancient remedy for their recovery partly taken away, the Title ſcandalized, as if the payment of them were ſuperſtitious, and Popiſh, and againſt the Laws both of God and man, which the people moſt greedily ſwallow, and no ſatisfaction endeavoured to be given to the avaritious multitude of their Legality: But as if the payment of them were as bad as clamor makes them, the peoples hopes are daily fed and heightned by holding forth of other Proviſions intended for them; whereas in point of Juſtice, Governors ſhould make new Laws to ſuppreſſe new deceitful

The Judges of Aſſiſe are able to teſtifie this Truth.

Inventions,

Inventions, and confirm all Legal Intereſts and Proprieties.

And thus you ſee how it comes to paſſe that payment of Tithes is looked upon as contentious and troubleſome, becauſe the people make it firſt litigious, and then cry out for an aboliſhment, or change at leaſt, becauſe it is litigious; as if it were lawful for one to take away the goods of another, and unlawful for him whoſe goods they were to uſe his lawful remedy for their recovery: Or, (yet more plainly) as if it were lawful to ſteal, and then to hang him up whoſe goods were ſtoln, for proſecuting the Thief: If this be not, I know not what is, the calling *evil good, and good evil, the juſtifying of the wicked, and condemning the juſt*, the reward whereof you may ſee in one word, *Wo*, *Eſa.* 5. 20. 23. which general word compriſeth all particular judgements here and hereafter, temporal and eternal.

Eſa. 5. 20. 23.
Prov. 17. 15.

Nor is the payment of Tithes contentious, becauſe the Parſon ſues for more then his Right, but becauſe the Pariſhioner will not pay what he ought: and the proof of the values reſting as well of the one ſide as the other, the Pariſhioner is too hard for the Parſon frequently, which gives an inlet, and openeth a wide gap both to Witneſſes and to Jury men, (who never were friends to Tithes) of the greateſt and moſt familiar perjury, that happeneth in any Tryals whatſoever; And all with impunity, for want of ſome Superior Court, whereunto the Judges of Aſſiſe may binde ſuch Jurors to appear and to anſwer for their miſdemeanors in thoſe trials. And that by the Law as now it ſtands, the Plaintiffe can recover no coſts of Suit: In which two caſes, if Authority would provide remedy, Tithes would be paid with leſſe ſcruple and contention by far, then now they are, and leſſe difficult would it be for them in Supreme Power to provide Laws for the more juſt payment of Tithes, and avoiding Suits and Contentions therein, then to find out and eſtabliſh a new Proviſion in lieu of them, which at the beſt will tacitely cenſure the Wiſdome of God, as hath been ſhewed; For this contention ariſeth not from the nature or manner of Tithes, but from thoſe who rob God and his Miniſters of them.

And again, ſuch new Proviſion muſt neceſſarily ariſe either out of the Land, ſubject to the payment of Tithes, or elſe out of the

the publick Treaſury. If out of the Land, I demand then whether hee that now ſcruples at, or contends in the payment of Tithes, will not be as troubleſome and contentious in payment of another thing in lieu of them? It is not to be doubted, but he will, if the conteſt ariſe from the thing it ſelf, which is the ſcruple and conteſt of the Anabaptiſt and Sectary, who diſrelliſh the Miniſtery it ſelf; and therefore ſcruple and contend at any maintenance at all, and they fall not under this diſpute of Alteration, who are altogether for abolition.

But if the conteſt ariſe about the name of Tithes or other ground, then poſſibly they may not be ſcrupulous or contentious to allow another thing, which as is ſhewed before, may more eaſily be compoſed by a private agreement, then by a publick and general Act; for difficult will it be, by a general Act, to make the exchange equal, or at leaſt ſuch as the Church may not be a loſer, and yet the Pariſhioner not think himſelf overcharged; which if he be, or do but think himſelf ſo to be, how contentious will he prove? and how litigious will be the payment? and ſo in ſtead of one evil ſpirit conjured down, many will be raiſed up.

But ſuppoſe the Pariſhioner be made to pay his Tithes to the State, and the Miniſter to have his pay from the publick Treaſury, (which is the moſt likely project.) How intricate a matter will it be found to ſettle a due Stipend? Some Pariſhes are greater then other; ſome Miniſters more deſerving then other; ſome having a greater charge of wife and children then other; ſome in birth and education brought up at an higher charge then other; ſome places dearer to live in then other: All which, with a multitude of other difficulties, are to be taken into conſideration, and then if the Stipend be not fixed to the place, every removal and ſucceſſion will require a new Alteration in perpetuity.

If the Miniſter of each Pariſh be to receive out of the publick Treaſury the rent of the Tithes of his Pariſh; Firſt, beſides that, that the Pariſhioners will not be pleaſed to pay their Tithes to the State-Officer, Tenant, or Collector, the Parſon cannot receive his due, for the Tenant, Officer, or Collector are to have their ſhare out of it, then the Treaſurer, Auditor, Tellers, Paymaſters, and many other publick Officers, and their Clerks and

Attendants, are to have their ſalaries, and the State muſt not be a loſer; and by that time that all theſe have had their ſhares out of a fat Benefice, how lean will the Parſon look? though there were no bribery to be thought on, for Publicans will not be always Saints, nor will Saints be always Publicans. And how naked ſhall the poor Parſon be, when he hath neither hay, ſtraw, nor food for horſe or beaſt, nor bread, drink, or meat for himſelf or family, nor one pound of wooll to clothe them all? Thoſe that live in Cities, or in Market Towns, (if they have money) may provide ſuch neceſſaries; but how will it fare with thoſe who live in Countrey Villages, eſpecially remote from Markets? So that upon the matter there muſt be for every place a peculiar Alteration, and for every Alteration a peculiar Law. Thoſe that ſeek peace in an unjuſt way, let them in ſo ſeeking aſſure themſelves that they ſhall finde contention and trouble enough: For *Opus Juſtitiæ eſt Pax.* Peace is the fruit or effect of Juſtice, not of Injuſtice, for which you may ſee the ſacred Text, *Eſa.* 32. 17. *Dum Pacem habemus Bellum quærimus*, they who deſtroy Religion with one hand, and Juſtice with t'other, who hold *Meum* in th'one hand, and *Tuum* in t'other, who will keep what they have, and get what they can, by deſtroying Religion, Law, and Propriety, let their Embleme be, *Sic quærimus Bellum.*

A third Argument there is, That this way of Tithing is an incertain way of maintenance for the Miniſter, and therefore ſome new way to be found out that ſhall be more certain.

This reaſon ſounds as if Miniſters were weary of the old ſacred Revenue, and now ſought for an Alteration: But herein certainly the Miniſter is injured, it is not their ſeeking, nor can they in conſcience or prudence deſire any exchange. Firſt, with what conſcience can they ſeek it, or accept of it, when that they and all the Learned know and acknowledge the way of Tithing to be a Moral Inſtitution, and an Evangelical Ordinance for the Miniſters maintenance, and nothing but the *quota* or part controverted in it. And if by an Alteration the ſcrupulous conſcience of one Lay man be quieted, the conſciences of all the Clergy will hereby be offended.

Nor can the Clergy in prudence deſire it, if they do but conſider, how their right and title to their Tithes is honoured by

Venerable

Venerable Antiquity, and eſtabliſhed, ratified and confirmed by all the Poſitive Laws of this Nation; and that the wits of all Ages ſince it became Chriſtian, could invent or excogitate. And how long will it be before Stipends will gain that Repute, or be ratified by like Authority? And if Right, backed with ſuch Authority, and Antiquity, cannot now ſupport Tithes, with how ſmall a blaſt will Stipends of a new ſtamp be blown away?

Again, let us examine wherein the incertainty of Tithes conſiſts, that requireth ſuch Exchange. Is Tithe more incertain then the nine parts? Can the Husbandman promiſe to himſelf a more certain encreaſe in his Nine parts, then the Parſon can do of his Tenth? Or, doth not the Tithe yield as certain a Rent or Revenue, as the nine parts? And doth not the Parſon pay as certain a Monethly taxe for his Tenth part, as the Huſbandman for his Nine? And what incertainty is there more in the telling of ten Cocks of Corn, then in the telling of ten pounds of money? There is thus much more certainty in receiving of Tithe, then of a Stipend, that the Tithe hath been certainly paid in Harveſt, and a Stipend will be certainly paid when the Parſon can get it. So you ſee Nature pays its due certainly, man incertainly, and yet the incertainty of man cryed up to be certain, and the immutability of Nature condemned for incertainty.

By what then hath been ſaid, you may diſcover the invalidity of thoſe motives of ſcrupulous conſciences, contentions, and incertainties held forth as grounds and cauſes for the Alteration of this Sacred Revenue. All other Arguments for this Alteration are more clamorous then colourable. Theſe I take to be the moſt ſober, and yet not ſolid pretences, but ſuch as beſt deſerved a ſatisfactory Anſwer.

Now whether in Juſtice ſuch a Mutation may be, or not, by Supreme Power profeſſing to govern by the known Laws of the Land, is conſiderable; and I truſt that without offence, may by the Rules of Juſtice and Reaſon, admit of diſquiſition: For this is not to limit their Power, but to rectifie Judgement.

Coke lib.4.13. & lib.8. in caſe of the Colledge of Phyſitians.

It is a Maxime in the Law, that an Act of Parliament againſt Commmon Right and Reaſon, or againſt the Law of

God, is *ipso facto*, null and void. If a Law therefore should be made to destroy an innocent person, either in his life or estate, this would be (*ipso facto*) void; or if to take away the Right of another against his will, without a crime, it would be null and void: Much more Illegal will it be to destroy or take away the Right of a Society, Function, or Profession of men. And because some Ministers have been contentious, that therefore all must suffer. The Schoolmen hold it unlawful to excommunicate a Corporation, or Society, out of a presumption that some of them may be Innocent.

If any shall urge presidents either Forain, or Domestick, Former, or Recent, here with us; it is answered, That besides that, that presidents are not always to be practised, nor is the commonnesse of an offence any States justification; You may know, that neither Monasteries, &c. vested in the Crown or State, till the Corporation, Order, &c. were dissolved. But now the Ministers Right is to be taken away, and yet the Ministery to stand: and if it be not lawful to take away their Right, the conferring of another thing upon them in exchange, will not cure the wrong. *Ahab* was not grown to that height of———as to act such Impiety.

Authority is ordained by God and man, to justifie the Innocent, and punish the Guilty, to maintain right and suppress wrong. Are not therefore some fiery spirits condemned, and that justly, that of late voted down Right, I mean the Right of Patronages? Doth it not concern others then to bee very wary, how they go about to turn Tithes into Stipends, or some other thing, whereby they doe not onely take away the Parsons Right, but the Patrons too, and in the alteration of the one, they destroy the other. For you may read in a Learned Writer of the Law, that if you take away the Tithe from the Parson, you take away the Right of Patronage from the Patron; for in a Writ of Right of Advowson, (which is one of the most ancient Writs of the Law) the Patron must make his Title to the Patronage, by alledging the taking of the Tithes by the Parson; for the whole benefit of the Patron consisteth in conferring his Tithes upon his Chaplain; and if the Tithes be taken from him, the Advowson or Right of Patronage doth vanish as a thing without fruit or benefit. Other Writs and

2 *part. Inst. p.* 646. 661. 364.

Matters

matters of Antiquity might be produced for the Rights of Patronages, which we truſt to be needleſs now to urge, ſince the vote for taking away thoſe Rights of the People, hath been condemned by all ſober men, as a thing ſo deſtructive to Right and Propriety, that no man could have told where ſuch High Injuſtice would have ended. Let them then that now or hereafter ſhall ſit in the Seat of Authority be well adviſed, how by the Alteration of one Fundamentall point of the Law, or of the Propriety of one ſort, Condition or Quality of perſons, they do not deſtroy another; and by the opening of ſuch a Gap, make way to the Ruine and deſtruction of all.

May we not now rather bewaile the mean, poor, deſpicable and contemptible condition of the Church of *England*, whereunto ſhe is at this day Reduced; Then to ſeek to take from her, that one, Onely and Single Right of Tithes, that is left her: Her Rights, Liberties, and Priviledges were ſo Numerous heretofore, that no former Age held it ſafe to begin their enumeration, or to ſum them up, leſt any ſhould be omitted. Nor did any Act of Parliament hitherto enumerate them; though the great Charter of this Nation did particulariſe, and ſpecifie the Rights and Liberties of the Lay People, and no other are confirmed unto them, but what were therein mentioned, yet the Rights, Priviledges, and Liberties of Holy Church not being held ſafe to be then numbred, are by that *Magna Charta*, in favour of the Church, confirmed in termes of Generality, and that Form only of Confirmation uſed by all Succeeding Parliaments. Of all the Ornaments that did ſet forth her Beauty heretofore, whereof ſhe is now deflowred, ſhall we not leave her one Jewell or Enſigne, wherby ſhe may be known, you that are now her Enemies, and ſolicite Supreme Power ſtill againſt her, be now charitable at laſt, afflict not her that mourneth, neither adde ſorrow to her affliction. Think upon the Curſes of them who perſecute ſuch as the Lord hath ſmitten, and talk how they may vex them, whom the Lord hath wounded.

2. Part Inſt. p. 3. 4.

Pſal. 69. and *Eſay* the 47. throughout.

Thoſe who bear the Sword, have been highly ſucceſsful againſt men in their Millitary imployments, and let them not take this Caveat in evill part, to be way of contending with God, for they that ſhal alter this Sacred Revenue of the Church muſt take upon them to reſolve the Point of Divinity, which

all the Learned of former Ages throughout all Christendome have left undetermined; and yet most of them both Ancient and Modern, have held with the Divine Right, which if it should now be Resolved amiss, how can you afterwards expect that the Heavens should favour you. And again what an Earthquake may we imagine will arise amongst Proprieties, if this lead the Dance? And if such a Judgement begin at the House of God, and in the Sacred Revenue, what may we think will be the issue of Common and Lay-Proprieties?

Lastly, if Divine Right will not support this Church-Patrimony, yet me thinkes Humane Right may be sufficient to preserve it. For the Lawes for Ecclesiasticall Rights are as Positive, and ought to be as powerfull, as for Temporall Rights; therefore is said, *Quod Jura Ecclesiæ, publicis æquiparantur*, and that it which is Granted to the Church for the Honour of God, and maintenance of his Religion and service (as men must acknowledge tithes were) is Granted for and to God. And if so, not in the Power of man, to take away from his Ministers against their wills, wherein I would not be mistaken, as if I did limit Supreme Power, or derogate from it; But my meaning is to ascribe that Honour to it, which the Law requires that all men should have of it, that is, that they cannot, because they will not, do an unjust thing, wherein the Gods on Earth do resemble the God of Heaven. For if when it is said that Supreme power may do what they will, this shal be extended that whatsoever they will do, be it just or unjust, is lawfull; that is an apparent error. For never was any such Power given unto men, as that their wils should be a Law: For this is the Peculiar Prerogative of the great God For what he wils is alwayes; just, because he wills it; But what man wills is never good unlesse it be just.

2. Part Inst. p. 3.

We read but of one amongst the Heathen that could say, *Sic volo, sic Jubeo, stet pro Ratione voluntas*. And but of one other in sacred story, of whom it was said, thus it must be, and thus it must not be, for *Hophni* will not have it thus, but so, it is God only who is essentially just, Man is just, but accidentally as he is well, or ill affected; and therefore a Subject improper to whom such an absolute power should be allowed, as that his will should be a Law. Nor do we read that ever any setled Gover-

vernment, or Governors claimed a Power *de Jure* to deprive an Innocent man, or a Profeſſion, or Society of Innocent men of their Rights, which by the Lawes of that Land are, and ſtand veſted and ſetled in them. For what were this, but a meer Arbitrary Government, to ſay no worſe of it, we treat not of Conquered Nations, becauſe (we think) we are a ſetled Government. And yet *William* the Conqueror loſt nothing by confirming the Rights of the Church in the firſt place, and Tithes thereunto in particular, for though not his Line, yet his Regiment continued till theſe dayes. And it ſeldome goes well long with the Commonwealth, when it goes ill with the Church.

Ann°. 4to. in his Survey of All the Ancient Lawes of the Land.

Thus have I endeavoured in this diſcourſe (though with too much weakneſs for ſo Pious a Patrimony, yet with ardent zeal) to preſer the Church from ſuffering and diſſwade others from tranſgreſſing, in altering this Sacred Revenue into a ſtipend, or other thing. By ſhewing the Primary owner to be Lord in a Peculiar manner. The Lord to be the firſt Donor to his firſt Prieſt before the Law; To the Levites *pro Tempore* under the Law. And afterwards to the Evangelicall Miniſtry in perpetuity. Who may neither *per Factum, nec per Feoffamentum nec pro Excambium* alienate or alter them to the Churches prejudice; Nor to be either Agents, or willingly Patients in this permutation. Foraſmuch as this Revenue in its kinde is moſt Naturall, moſt convenient, moſt equall. The Inſtitution thereof in the thing (if not in the *Quota* alſo) by the Divine Morall or Naturall Law. The Donation or Aſſignation both of the Thing and of the *Quota* or Part, Judiciall to the Jewes, Not Ceremoniall, nor the Thing Leviticall, otherwiſe then in the aſſignation *pro Tempore*; Since the Law, the Thing it ſelf at leaſt in kinde (if not in the *Quota* alſo) Evangelicall. The Thing and *Quota* by the Judiciall, Nationall & Poſitive Lawes of *England* eſtabliſhed, veſted, and ſetled in the Church as her Propriety, Not in the Legiſlative Power (for ſo much as concerneth the Divine Morall or Naturall Right thereof) to be altered: Nor (without offence be it ſpoken) for what thereof concerneth the Judiciall or Poſitive Lawes of this Nation, without the conſent of Parſon and Patron, to be changed; Neither upon pretence of Scruple, Contention, Incertainty, or Inequality, nor any other pretence whatſoever. For *Juſtitia eſt Suum Cuique tri-*

tribuere, (*Suum non Alienum*) that is to say, Justice gives to every man his own, Not to one man that which is anothers; So that no Respect whatsoever ought to incline a Judge to give Judgement against the Law or Right.

In all or any of which particulars wherein I have fallen short (For it was not my purpose to be tedious, nor to Muster up the Objections, or Answers for, or against the Rise the Author, the Right or the *Quota* of Tithes, which are enough to be the Subjects of a voluminous Book, but only to shew the Dogmaticall truths, and the Concessions, if not of all, yet of the Generality of Writers in this Summary discourse) I trust some others more able will afford their helping hand for the support of this Sacred Revenue, which is the last of the flowers of the Churches Temporall Garland now left her, that is considerable. And it is to be hoped, (if it be well defended now by able *Pens*) that it will be the last Conflict and Contest she shall find against this Judiciall at Least, Divine Patrimony, which hath this only Adversary to confute or satisfie now remaining, especially if the Eyes of the people were but once open, and their understanding enlightned, and their hopes of Gain (their great *Diana*) abated, by looking upon *Holland* our Sister Commonwealth, *France* and other Places where Tithes have been translated only from the Ministers, to the State Commissioners, where they, and I will both end in this Alteration, For *Quod Non capit Christus, capit Fiscus*, what is not paid to the Church, must be paid to the *Checquer*. *Unde Nulla Redemptio*, from whence there is No Return.

FINIS.